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May 11, 2001

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 01-25 — Petition of Cape Light Compact

Dear Secretary Cottrell:

On behalf of Commonwealth Electric Company d/b/a NSTAR Electric (“NSTAR Electric” or the “Company”), this responds to the letter dated May 7, 2001, submitted to the Department of Telecommunications and Energy (the “Department”) in this proceeding by a George A. Woodbury of LightSmart Consulting Service of Hollis, New Hampshire. The letter must be given no weight by the Department because it is both procedurally and substantively improper.¹

Much of the letter makes a series of largely incomprehensible assertions about Mr. Woodbury’s views of ratemaking and the depreciation practices of NSTAR Electric. Not only are the assertions facially inaccurate, but they represent an improper attempt to supplement a record that has closed. The Department established a procedural schedule, agreed to by the parties, that permitted the submission of prefiled testimony, the exchange of discovery and an evidentiary hearing. Hearing Officer Memorandum, dated March 12, 2000. A jointly filed list of exhibits was submitted by the Company and the Compact, and together with the hearing transcript, those exhibits form the evidentiary record in the case. The belated attempt to supplement the record with additional factual assertions by a non-party to this proceeding must be rejected by the Department on procedural grounds alone. The prejudice to such a process is self-evident, since the Company had no opportunity to cross examine any statements included in the letter or otherwise rebut the spurious factual allegations contained therein. Any Department

¹ Although Mr. Woodbury was presented as a witness in another case by counsel for the petitioners in this matter, since the Cape Light Compact (the “Compact”) did not file the letter from Mr. Woodbury, the Company will assume that the Compact had no role in soliciting this improper filing.

reliance on such material would violate the Company's due process rights. See, e.g., Administrative Procedure Act, G.L. c. 30A, § 11.²

Perhaps the most egregious aspect of the letter is Mr. Woodbury's attempt to lend credence to his assertions by claiming that he "was the author of Section 196 of the Deregulation Act [*sic*]..." (Woodbury Letter at 1). Regardless of Mr. Woodbury's alleged involvement with the legislation, his personal views cannot be attributed to the Legislature and cannot be read as evidence of legislative intent.³

Accordingly, the letter cannot be accorded any evidentiary weight and must not be considered by the Department. Thank you for your attention to this matter.

Sincerely,

Robert N. Werlin

cc: William Stevens, Hearing Officer
Robert E. Hayden, Legal Division
Mark Barrett, Rates and Revenue Requirements Division
Joseph Passaggio, Rates and Revenue Requirements Division
Sean Hanley, Rates and Revenue Requirements Division
Ghebre Daniel, Electric Power Division
Kenneth L. Kimmell, Esq.
John Cope-Flanagan, Esq.
George A. Woodbury

² If the letter were considered to be a "brief" in this proceeding, it should also be stricken from the record. LightSmart Consulting Services is not a party to the case and has no right to file a brief. Moreover, there is no indication that Mr. Woodbury is an attorney, licensed to practice law, and if the letter is being submitted "on behalf of the communities" that Mr. Woodbury states that he represents (Woodbury Letter at 1), then he may be practicing law without a license. See, Western Massachusetts Electric Company, D.P.U. 88-8A-3, at 7 (1988), citing G.L. c. 221, § 46A.

³ The authorship of Massachusetts statutes is vested by Constitution in The General Court of Massachusetts, not a consultant from New Hampshire. Mass. Const. Pt. 2, c. 1, § 1, Art. 1.